

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #11	CCRB Case #: 202202293	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 02/14/2022 9:30 PM	Location of Incident: § 87(2)(b)	Precinct: 101	18 Mo. SOL 8/14/2023	EO SOL 8/14/2023	
Date/Time CV Reported Sun, 04/10/2022 1:43 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 04/10/2022 1:43 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. PO James Drummy	08979	941204	101 PCT
3. SGT Robert Luckmann	02568	945934	101 PCT
4. DTS Tabitha Sarni		951215	

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Frank Manara	27468	972360	101 PCT
2. PO Shane Ellers	09231	960495	101 PCT
3. PO Sophia Bacchus	23173	971815	101 PCT
4. PO Numaël Amador	03367	953634	101 PCT
5. DTS Derek Labua	02993	943456	ESS 09
6. DTS Andrew Burrafato	04138	932384	ESS 09
7. CPT Mario Deras	00000	941650	106 PCT
8. DTS Sean Gillespie	02626	947029	106 PCT
9. PO John Quinn	15271	951097	ESS 09
10. DTS Kevin Isernia	04222	932813	ESS 09
11. DTS Thomas Donaldson	02956	948903	ESS 09
12. Corey Sarro		953370	

Officer(s)	Allegation	Investigator Recommendation
A. PO James Drummy	Abuse: Police Officer James Drummy disseminated information regarding § 87(2)(b) arrest history.	§ 87(2)(b)
B. PO James Drummy	Abuse: Police Officer James Drummy disseminated information regarding § 87(2)(b) arrest history.	§ 87(2)(b)
C. SGT Robert Luckmann	Abuse: Sergeant Robert Luckmann disseminated information regarding § 87(2)(b) arrest history.	§ 87(2)(b)
D. SGT Robert Luckmann	Abuse: Sergeant Robert Luckmann damaged § 87(2)(b) property.	§ 87(2)(b)
E. SGT Robert Luckmann	Abuse: Sergeant Robert Luckmann entered § 87(2)(b) in Queens	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
F.SGT Robert Luckmann	Abuse: Sergeant Robert Luckmann searched § 87(2)(b) in Queens	
G.DTS Tabitha Sarni	Abuse: Detective Tabitha Sarni interfered with § 87(2)(b) use of a recording device.	
H. An officer	Abuse: An officer disseminated information regarding § 87(2)(b) medical status.	
I. An officer	Abuse: An officer disseminated information regarding § 87(2)(b) arrest history.	
J. An officer	Abuse: An officer disseminated information regarding § 87(2)(b) arrest history.	

### Case Summary

On April 10, 2022, § 87(2)(b) filed this complaint online with the CCRB on behalf of himself and his partner § 87(2)(b).

On February 14, 2022, at approximately 8:50 p.m., § 87(2)(b) was alone in his and § 87(2)(b) home located on the second floor of § 87(2)(b) in Queens when he accidentally broke a window while moving furniture. At approximately 9:30 p.m., PO James Drummy, PO Frank Manara, PO Shane Ellers, and PO Sophia Bacchus of the 101<sup>st</sup> Precinct responded to the location and spoke with § 87(2)(b) landlord, § 87(2)(b) who had called 911, in the vacant first-floor unit. The officers attempted to locate contact information for § 87(2)(b) and § 87(2)(b) in doing so, PO Drummy verbally disclosed information about a prior arrest involving § 87(2)(b) in § 87(2)(b) presence (**Allegation A: Abuse of Authority**, § 87(2)(g)).

Sgt. Robert Luckmann and PO Numaël Amador of the 101<sup>st</sup> Precinct arrived at the location. PO Drummy informed Sgt. Luckmann that § 87(2)(b) had been arrested numerous times, Sgt. Luckmann asked what for, and PO Drummy disclosed § 87(2)(b) arrest history in § 87(2)(b) presence (**Allegations B and C: Abuse of Authority**, § 87(2)(g)).

Officers knocked on § 87(2)(b) door and he did not come outside. Sgt. Luckmann requested the Emergency Services Unit (ESU) to the location. Det. Tabitha Sarni, Det. Andrew Burrafato, PO John Quinn, Det. Derek Labua, Det. Kevin Isernia, and Det. Thomas Donaldson of Emergency Services Unit 9 arrived at the location. ESU broke the door, entered the home, arrested § 87(2)(b) and searched the premises (**Allegations D, E, and F: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) left his cellphone inside the apartment recording and Det. Sarni turned it off (**Allegation G: Abuse of Authority**, § 87(2)(g)).

Afterward, § 87(2)(b) arrived at the location and in her presence an officer allegedly disclosed § 87(2)(b) mental health information to § 87(2)(b) and allegedly provided § 87(2)(b) with a printed document of § 87(2)(b) and § 87(2)(b) arrest histories (**Allegations H, I, and J: Abuse of Authority**, § 87(2)(g)).

§ 87(2)(b) was arrested for criminal mischief (**BR 01**).

The investigation obtained 17 body-worn camera videos from officers from the 101<sup>st</sup> Precinct, 106<sup>th</sup> Precinct, and Emergency Services Squad 9 (**BR 02, BR 03, BR 04, BR 05, BR 06, BR 07, BR 08, BR 09, BR 10, BR 11, BR 12, BR 13, BR 14, BR 15, BR 16, BR 17, and BR 18: videos, BR 19, BR 20, BR 21, BR 22, BR 23, BR 24, BR 25, BR 26, BR 27, BR 28, BR 29, BR 30, and BR 31: summaries**) and one cellphone video from § 87(2)(b) (**BR 32: video, BR 33: summary**).

Closing this case was delayed because PO Drummy was on extended paternity leave and could not be interviewed until May 19, 2023, when he returned to work.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer James Drummy disseminated information regarding § 87(2)(b) arrest history.**

**Allegation (B) Abuse of Authority: Police Officer James Drummy disseminated information regarding § 87(2)(b) arrest history.**

**Allegation (C) Abuse of Authority: Sergeant Robert Luckmann disseminated information regarding § 87(2)(b) arrest history.**

Neither § 87(2)(b) nor § 87(2)(b) were present when PO Drummy and Sgt. Luckmann discussed their arrest history in front of § 87(2)(b) in the first-floor unit of § 87(2)(b) however, it was caught on body-worn camera.

PO Drummy's body-worn camera footage (**BR 02: video, BR 19: summary**) shows at 13:40 minutes, in § 87(2)(b) presence, PO Drummy says, "She § 87(2)(b) § 87(2)(b) but I don't know if we would be able to look that up."

Sgt. Luckmann's body-worn camera footage (**BR 07: video, BR 31: summary**) shows after Sgt. Luckmann arrives in the first-floor unit, at 2:49 minutes, PO Drummy says, "Last time when § 87(2)(b)." Sgt. Luckmann asks, "What did she get collared for last time?" and PO Drummy says, "§ 87(2)(b)." Sgt. Luckmann says, "What about here, she's ever been collared here?" PO Drummy says, "That I don't know." PO Ellers says, "Not in this building," and § 87(2)(b) says, "Well I did call the cops before for the breaking of the door." At 3:18 minutes, "This guy § 87(2)(b)." Sgt. Luckmann says, "What's his stuff." At 3:55 minutes, PO Drummy says, § 87(2)(b).

PO Drummy stated (**BR 35**) he performed unspecified police database checks on § 87(2)(b) and § 87(2)(b) using his department issued cellphone to check their history for the safety of everyone present and to share the arrest history with the other officers, Sgt. Luckmann, and later ESU, so they would know what they could possibly encounter when § 87(2)(b) door opened. PO Drummy explained that the conversation took place inside the first-floor apartment in front of the other civilians because the window immediately outside the door was broken and he did not want anything to be thrown at them while they were distracted trying to figure out what was going on. There was no intention of sharing the arrest histories with § 87(2)(b).

Sgt. Luckmann explained (**BR 36**) that § 87(2)(b) and several other civilians were present and, in a position, to hear the conversation. Sgt. Luckmann did not know who the other civilians were, but they were friendly with § 87(2)(b). § 87(2)(b) was also providing information to officers. Sgt. Luckmann did not intentionally disclose any arrest history information to § 87(2)(b).

NYPD Administrative Guide procedure 304-15 (**BR 40**) states that when disclosing information from an information system to others, including other members of service, it may be done so only as required in the execution of lawful duty and these guidelines apply to the oral transmission of information contained in any Department information system as well.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (D) Abuse of Authority: Sergeant Robert Luckmann damaged § 87(2)(b) property.**

**Allegation (E) Abuse of Authority: Sergeant Robert Luckmann entered § 87(2)(b) in Queens.**

**Allegation (F) Abuse of Authority: Sergeant Robert Luckmann searched § 87(2)(b) in Queens.**

§ 87(2)(b) stated (**BR 34**) that he was alone in his apartment when he accidentally broke his living room window while moving furniture. § 87(2)(b) did not explain how this accident occurred. Approximately five officers arrived, knocked on § 87(2)(b) door, and asked him to come outside because they wanted to talk. § 87(2)(b) immediately closed the door and went upstairs and turned up his music.

Approximately 20 minutes later, officers entered the apartment. Part of the wall was broken due to the door being forced in. Four to five ESU officers went upstairs and placed § 87(2)(b) in handcuffs. § 87(2)(b) was brought outside and placed in an ambulance. § 87(2)(b) tried to refuse medical treatment, but his hand was bleeding from the broken window.

PO Drummy's (**BR 35**) and Sgt. Luckmann's (**BR 51**) statements were consistent with their body-worn camera footage. PO Drummy's body-worn camera footage (**BR 02: video, BR 19: summary**) shows at 2:45 minutes, PO Drummy calling Sgt. Luckmann on a cellphone. PO Drummy explains to Sgt. Luckmann that they are on § 87(2)(b) that the landlord, § 87(2)(b) called

from downstairs saying she heard a loud commotion, people making noises, and then music turned all the way up. There are a couple windows broken upstairs, the upstairs occupants are not answering the door, and § 87(2)(b) is trying to call them, and they are not answering. § 87(2)(b) said before officers arrived it sounded like people arguing. At 12:16 minutes, PO Drummy takes another phone call from Sgt. Luckmann and explains that the music is off now and there is still no answer at the door. PO Drummy explains that the unit is on the second floor and § 87(2)(b) had rented it to a female and her three children and the boyfriend stays there sometimes. PO Drummy says, “So there’s possibly three kids there right now.” At 15:45 minutes, PO Ellers attempts to call a phone number § 87(2)(b) provided on a previous police report and it goes straight to voicemail. § 87(2)(b) says that § 87(2)(b) phone is also going straight to voicemail.

Sgt. Luckmann’s body-worn camera footage (**BR 07: video, BR 31: summary**) shows at 1:00 minute, Sgt. Luckmann arriving and PO Drummy explaining that they have been trying to call § 87(2)(b) and knock on the door. At 2:24 minutes, Sgt. Luckman says, “And we think there may be three kids?” PO Drummy says, “It’s a possibility cause she’s saying that she has three children.” Sgt. Luckmann says, “Do we know for sure if they’re up there or not?” § 87(2)(b) says, “We’re not sure. I don’t think so cause I don’t hear kids.” Sgt. Luckman says, “If they weren’t here where would they be?” and § 87(2)(b) says, “That’s a good question, so I don’t know.”

At 4:05 minutes in Sgt. Luckmann’s body-worn camera footage, (**BR 07: video, BR 31: summary**), Sgt. Luckmann says, “What happened today, did you hear them arguing?” § 87(2)(b) says, “My tenants are here on the first floor they say they hear windows breaking, yelling, cussing, stomping [...] arguing.” An unidentified male tenant explains that he heard § 87(2)(b) only. At 6:13 minutes, Sgt. Luckmann is outside and says, “we don’t know for sure if there’s kids up there, and if they’re having a dispute, you know, I don’t know if this falls into the category of ESU or not.

Sgt. Luckmann (**BR 51**) explained that when the officers ran § 87(2)(b) background, they saw previous emotionally disturbed person history. Sgt. Luckmann was worried about the children’s safety due to the loud arguing, the crash, then hearing nothing, and no one answering the door or phone. The broken window was located directly above the stoop and there was glass on the ground. Sgt. Luckmann called operations which provided the duty captain, Captain Deras’, of the 106<sup>th</sup> Precinct, phone number. Sgt. Luckmann requested Captain Deras because it was the procedure for a barricaded emotionally disturbed person, and Sgt. Luckmann was unable to ascertain what exactly happened in § 87(2)(b) apartment. Sgt. Luckmann believed it could have been a barricaded emotionally disturbed person situation because § 87(2)(b) said she heard arguing and the officers were not making any progress after knocking on the door and attempting to call § 87(2)(b). Sgt. Luckman did not know that it was a barricaded situation and stated that it could have even been a hostage situation, that they did not know. Sgt. Luckmann also requested ESU over the radio.

Det. Burrafato’s body-worn camera (**BR 12: video, BR 23: summary**) shows at 00:40 seconds the door to § 87(2)(b) unit being forced open. At 1:00 minute, Det. Burrafato and another ESU officer instruct § 87(2)(b) to come down the stairs. At 2:50 minutes, § 87(2)(b) comes outside and Det. Burrafato handcuffs him. Det. Burrafato asks whether there are children upstairs and § 87(2)(b) says no. At 3:49 minutes, Det. Burrafato, enters the apartment with additional ESU officers. The ESU officers search the apartment for any additional people, do not find anyone, and then leave.

Sgt. Luckmann stated (**BR 51**) that after § 87(2)(b) came outside, he was brought to § 87(2)(b) for a psychological evaluation. No one else was inside the apartment. Captain Deras later contacted Sgt. Luckmann and informed him that § 87(2)(b) would be under arrest for criminal mischief for breaking the window.

§ 87(2)(b) called 911 twice (**BR 37: audio, BR 38 and BR 39: summaries**) to request police assistance and reported that she heard a glass window breaking, yelling, and swearing which she believed was coming from the male and female, § 87(2)(b) and § 87(2)(b) on the second floor.

In People v. Rodriguez, 77 A.D. 3d 280 (2010) (BR 41), the court found that officers were permitted to make a warrantless entry of a premises when the officers reasonably believed that there was an emergency which required immediate assistance for the protection of life or property, and that there was a reasonable basis to associate the premises with the emergency at hand.

In Onderdonk v. State 170 Misc. 2d 155 (1996) (BR 42) the court found that officers may damage property only if it is reasonably necessary to carry out their duties.

Given the broken windows, the reports of yelling upstairs, and the officers being unable to confirm whether the three children were inside the apartment, § 87(2)(g)

**Allegation (G) Abuse of Authority: Detective Tabitha Sarni interfered with § 87(2)(b) use of a recording device.**

§ 87(2)(b) (BR 34) left his phone inside of his apartment recording when he was taken out by officers. Later, after he returned home, he observed on the video that a female officer, identified by the investigation as Det. Sarni, turned off the recording.

§ 87(2)(g)

The cellphone video (BR 32: video, BR 33: summary) provided by § 87(2)(b) shows at 7:25 minutes, ESU officers walking around the apartment. At 10:30 minutes, Det. Sarni points at the camera, says, “Oh look,” walks over to the cellphone, and turns it off.

§ 87(2)(g)

**Allegation (H) Abuse of Authority: An officer disseminated information regarding § 87(2)(b) medical status.**

**Allegation (I) Abuse of Authority: An officer disseminated information regarding § 87(2)(b) arrest history.**

**Allegation (J) Abuse of Authority: An officer disseminated information regarding § 87(2)(b) arrest history.**

§ 87(2)(b) (BR 44) stated that an officer, who she described as a Black male with a dark complexion, who was 5’9” to 6’1” tall, with an average build, wearing a blue uniform, told § 87(2)(b) that § 87(2)(b) had a bipolar disorder. The officer also provided § 87(2)(b) with a printout of § 87(2)(b) and § 87(2)(b) criminal backgrounds and arrest history. § 87(2)(b) stated that had she known about the mental health and criminal histories that she would have never rented them the apartment.

§ 87(2)(b) stated (BR 45) that § 87(2)(b) came to the location and was crying. § 87(2)(b) asked her what was going on and she said she and § 87(2)(b) got into an argument and she had left. § 87(2)(b) stated her children were not in the apartment at this time. An officer was nearby possibly taking § 87(2)(b) statement. § 87(2)(b) overheard § 87(2)(b) talking about § 87(2)(b) criminal record and mental health history saying that this had happened before. § 87(2)(b) stated that she would not have rented the apartment to § 87(2)(b) and § 87(2)(b) had she known these histories. An officer took out his phone and appeared to be confirming § 87(2)(b) name and date of birth with § 87(2)(b) § 87(2)(b) did not see what was on the officer’s phone. She believed it could have been § 87(2)(b) arrest history, but the arrest history was never shared with her.



Sgt. Luckmann (BR 51) did not recall any officers speaking out loud about § 87(2)(b) mental health history in front of § 87(2)(b). Sgt. Luckman was not aware that officers ever disclosed § 87(2)(b) mental health history to § 87(2)(b). Sgt. Luckmann did not interact with § 87(2)(b) and did not remember her ever coming on scene. PO Drummy similarly stated that he did not witness any officer speak about any emotionally disturbed person history or observe § 87(2)(b) arrive on scene.

There was no video capturing any officer providing § 87(2)(b) with § 87(2)(b) mental health history or any printed documentation of § 87(2)(b) and § 87(2)(b) arrest histories. However, none of the videos capture § 87(2)(b) arrival or any interaction between her and the officers. None of the officers who responded to this incident were Black and the body-worn camera footage shows that none of the officers with a dark complexion as described by § 87(2)(b). For these reasons, no subject officer was identified pertaining to this allegation.

§ 87(2)(g)

#### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR 46 and BR 47).
- PO Drummy has been a member of service for 16 years and named a subject in three additional CCRB complaints and seven allegations, three of which were substantiated.
  - 201101692 involved substantiated allegations of a frisk, stop, and threat of arrest. The Board recommended charges and the NYPD imposed instructions.
- Sgt. Luckmann has been a member of service for 15 years and named a subject in two additional CCRB complaints and three allegations, none of which were substantiated.
  - § 87(2)(g)
- § 87(2)(g)

#### Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 1, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (BR 48).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 11

Investigator: Kelly Lyon  
Signature

Inv. Kelly Lyon  
Print Title & Name

05/23/2023  
Date

Squad Leader: Edwin Pena IM Edwin Pena 05/23/2023  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date